84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1688

AMENDMENTS TO ARMED SERVICES PROCUREMENT ACT OF 1947

JANUARY 30, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. VINSON, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 8710]

The Committee on Armed Services, to whom was referred the bill (H. R. 8710) to amend the Armed Services Procurement Act of 1947, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment is as follows:

On page 3, lines 16 and 17, strike "62 Stat. 22" and insert in lieu thereof "69 Stat. 547".

LEGISLATIVE HISTORY

In the 80th Congress, this committee consolidated into a single act, all of the laws relating to military procurement. This act is designated as the Armed Services Procurement Act of 1947, being the act of Congress approved February 19, 1948.

The declared purpose of the committee in recommending the legislation was stated in the report to be the reestablishment of the—

requirement that the advertised competitive method shall be followed by those Departments (Army and Navy) in placing the great majority of their contracts for supplies and services—

since the committee was of the firm belief that—

as a general matter, this method gives the best assurance that—

(*a*) the Government as a purchaser will receive the best bargain available, and

(*b*) suppliers in a position to furnish the Government's requirement will have a fair and equal opportunity to compete for a share in the Government's business (H. Rept. 109, 80th Cong., 1st sess., accompanying H. R. 1366, dated March 10, 1947, p. 3).

The Armed Services Procurement Act of 1947 has not been amended since its enactment, save for an amendment (which will be hereinafter referred to) which was passed by the 84th Congress as a part of Public Law 268, 84th Congress, adding a new section 3 (c), effective July 31, 1955. For the reasons hereinafter stated, this committee in H. R. 8710, recommends repeal of this amendment.

Method of Military Procurement Since 1953

Congress has not reviewed the procurement procedures under the act since the date of enactment.

On December 16, 1950, the President, by Proclamation No. 2914, declared a national emergency, hostilities having broken out in Korea at that time. One effect of this proclamation was to invoke section 2 (c) (1) of the act whereby the advertised competitive bidding process could be suspended for the duration of such emergency (H. Rept. 109, p. 7, sec. i).

In providing this exception in 1947, the committee stated in its report that it was concerned that "any future war" might start with great suddenness and—

> that minimum preparedness required that legislation be available to permit the shedding of peacetime requirements simultaneously with the declaration of any emergency by the President.

On December 18, 1950, the Department of Defense issued a directive implementing the President's emergency proclamation and authorizing negotiated procurement. Hostilities in Korea terminated by an armistice agreement on July 27, 1953; but the Armed Services Procurement Regulations issued by the Department of Defense until January 1, 1956, cited and authorized the use of the Korean proclamation and the suspension of the advertised competitive procurement procedures specified in the act for contracting within the several military establishments.

In October 1955, the committee became concerned with the number of contracts coming to its attention which were the result of negotiation instead of advertised competitive bidding, the latter being the basic policy method prescribed in the act. An inquiry was begun and the several military departments responded with figures showing the dollar volume of advertised competitive procurement and that of negotiated procurement under the emergency authority in section 2 (c) (1). The figures furnished were taken from monthly reports made within the several military establishments. The committee was alarmed at the extensive use of this exception both in dollar amount and in numbers of contracts.

Those figures are as follows:

Comparison of procurement by negotiation versus advertised competitive bidding from Jan. 1, 1953, through June 30, 1955, by dollar value and number of actions of net procurement by negotiation under sec. 2 (c) (1), Armed Services Procurement Act of 1947 to net procurement by advertised bids.

TABLE A.—*By dollar value*

	Total	Negotiated	Advertised	Negotiated	Advertised
				Percent	*Percent*
Department of Army [1] (Chemical, Medical, Ordnance, Quartermaster, Signal, and Transportation Corps)	$7,541,465,000	$6,095,129,000	$1,446,336,000	80.82	19.18
Department of Navy [2] (all bureaus)	9,978,617,000	9,396,994,000	581,623,000	94.17	5.83
Department of Air Force [3] (Air Materiel Command)	18,847,404,000	18,764,009,000	83,395,000	99.56	.44
Department of Defense total	36,367,486,000	34,256,132,000	2,111,354,000	94.19	5.81
CONSTRUCTION PROGRAM, SEC. 2 (c) INCLUDED [4]					
Corps of Engineers [1]	$2,671,756,000	$441,445,000	$2,230,311,000	*Percent* 16.5	*Percent* 83.5
Bureau of Yards and Docks [2]	712,832,000	192,957,000	519,875,000	27.1	72.9
Total	3,384,588,000	634,402,000	2,750,186,000		

[1] See appendix A for detailed data submitted by Department of the Army.
[2] See appendix B for detailed data submitted by Department of the Navy.
[3] See appendix C for detailed data submitted by Department of the Air Force.
[4] "(c) This section shall not be construed to (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repiar of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 3, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by the provisions of paragraph (1), (2), (3), (10), (11), (12), or (15) of subsection (c) of this section."

TABLE B.—*By number of contracts*

	Total	Negotiated	Advertised	Negotiated	Advertised
				Percent	*Percent*
Department of Army [1] (Chemical, Medical, Ordnance, Quartermaster, Signal, and Transportation Corps)	1,565,892	1,476,931	88,961	94.32	5.68
Department of Navy [2] (all bureaus)	45,035	34,693	10,342	77.04	22.96
Department of Air Force [3] (Air Materiel Command)	30,942	26,219	4,723	84.74	15.26
Department of Defense, total number of contracts	1,641,869	1,537,843	104,026	93.66	6.34
CONSTRUCTION PROGRAM, SEC. 2 (c) INCLUDED					
Corps of Engineers [1]	359,746	310,535	49,211	*Percent* 86.3	*Percent* 13.7
Bureau of Yards and Docks [2]	4,917	967	3,950	19.7	80.3
Total number of contracts	364,663	311,502	53,161		

[1] See appendix A for detailed data submitted by Department of the Army.
[2] See appendix B for detailed data submitted by Department of the Navy.
[3] See appendix C for detailed data submitted by Department of the Air Force.

DISCUSSION OF COMMITTEE AMENDMENTS

1. AMENDMENT OF SECTION 2 (C) (1)

Section 2 (c) (1), as amended by this bill, will confine the suspension of advertised competitive procurement to such periods of national emergency "as are declared by the Congress," instead of national emergency power being vested in the President as well.

When the original act was passed, the provision concerning a national emergency declared by the President was inserted in an atmosphere of peace following the sudden onset of World War II. That power was intended by the committee to be used only in a real emergency. But, in practice, this provision has been used for other purposes and reasons.

In the present state of progress it cannot be validly argued that it is difficult to obtain congressional action through the prompt action of the Congress. Moreover, no situation could be of such an emergent character that time could not intervene between a precipitate emergency and the convening of the Congress.

If all else should fail, there are provisions in subsection 2 (c) (2) for the use of negotiations in a "public exigency which would not admit of delay." Certainly this latter authority is sufficient for the time which might intervene between a sudden emergency and the convening of Congress.

By removing this Presidential authority provision, we restore to military procurement the basic principles of advertised competitive bidding as the rule and not the exception. We require that this act be administered as it was intended to be administered in a peacetime economy. It was never considered that the emergency provisions would be utilized to sustain programs, however laudable, wholly without the cognizance of this committee and the military departments. These programs, however well conceived in themselves, should be judged on their merits and ought to be specifically implemented by the Congress.

2. AMENDMENT OF SECTION 2 (c) (3)

While under review, we concluded that the limitation of $1,000 in section 2 (c) (3) was hampering economical procurement. The Comptroller General agrees with us. He and we are of the opinion that a limit of $2,500 in single purchases would be a more realistic limitation, in the current state of our economy, than would a limitation of $1,000. It has been pointed out that the paperwork involved in a procurement is the same whether it be for $1,000 purchase or one for many thousands of dollars. The Department of the Army testified that its numerous procurements under this exception averaged $130.

The Comptroller General has established a different standard for procurements under $5,000. In these circumstances, we feel that, while the subject is under review, it is advisable and in the interests of economy and efficiency, to raise the limit set out in section 2 (c) (3) to $2,500.

3. AMENDMENT OF SECTION 2 (c) (9)

We have amended section 2 (c) (9) to provide that nonperishable subsistence items may also be purchased by negotiation. The Department of the Army has testified, very convincingly, upon this procurement program which it operates for all three services.

The method employed by the Quartermaster Corps at its 10 procurement centers, comes under the general heading of "Negotiated Procurement" as distinguished from advertised competitive procurement. But in a true sense, it is a mixture of both.

The actual process is for quotations to be received at the Army centers at a certain day and time. Whether the bid be received by

telephone, telegraph, letter, or in person, the process is substantially the equivalent of a deposited bid, at a time certainly stated and a price irrevocable for the period of the commitment. And no one is prohibited from bidding. And procurement needs are publicized extensively. We have never had a complaint on the operation of this system.

Since passage of the act in 1947, there has been a change in the marketing system for nonperishable substances, such as canned goods. The introduction into the market of frozen foods and other methods of packaging and marketing has changed the requirements and placed military procurement at a disadvantage in this competitive field. To permit abandonment of the strict form of advertised competitive bidding in the field of nonperishable substances, such as the Quartermaster General of the Army has shown, will in fact result in a broader base and a better system of procurement than could otherwise be done. The seasonal packs and the difference in packing for military use, require that decisions be made while crops are still in the field. That can best be accomplished by the flexibility of decision allowed in this exception. In no sense is competition avoided because food prices and demands are public knowledge and posted at market centers.

Military procurement can easily be compared. That being the case, and the element of secrecy being removed, proper safeguards and standards of performance prevail. We think the Quartermaster has made a convincing case for the type of mixed, negotiated and competitive, procurement which it is pursuing, and that it would be wise and economical to extend it to nonperishable subsistence items as well.

2. AMENDMENT OF SEC. 2 (C) (17)

Procurements in aid of small business—Surplus labor areas, and disaster areas (Set-aside and unilateral programs)

The Department of Defense represents to us that its "set-aside" and "unilateral" procurement undertakings for small business concerns depend upon the continued use of the President's Korean emergency proclamation under the exception provided in section 2 (c) (1). If this is so, it is a very shaky reed on which to balance such programs. We disagree with this conclusion; and moreover, we seriously question the authority or the propriety of using the military procurement system as authority for these programs, without specific legislation of the Congress. Congress has never refused to enact legislation to further the interests of small business in any procurement program.

Our disagreement with the suggestions advanced by the Department of Defense is that the Small Business Act of 1953, as amended, does authorize negotiated contracts. There may be some reservations about the language employed, but nonetheless, the authority appears to be there by both language and intent of the act. (See 67 Stats. 232, Small Business Act, 1953, amended sec. 207 (c) (d).)

(c) "to enter into contracts with the United States Government and any department, agency, or officer thereof * * *.

(d) "to arrange for the performance of such contracts by negotiating or otherwise letting contracts to Small Business concerns or others * * * as may be necessary to enable the Administration to perform such contracts."

In a letter presented to the committee, the chairman of the House Select Committee for Small Business supports this bill to take away the national emergency proclamation powers of the President. He cited the experience of small-business concerns in negotiated versus advertised competitive contracts. He pointed out to us that 64 percent of the dollar value of all advertised competitive contracts in the 30-month period which we surveyed had been won by small-business concerns. In his opinion, the position of small-business concerns in negotiations was less favorable, therefore than advertised competitive bidding, notwithstanding the provisions of the Small Business Act, as amended, with respect to negotiation of contracts. And the House Select Committee for Small Business endorses our proposal to close off and take away the exception provided in section 2 (c) (1) of the Armed Services Procurement Act, as amended.

Nevertheless, the Armed Services Procurement Act, as amended in H. R. 8710, will preserve by specific recognition in section 2 (c) (17) any authority granted by the Small Business Act of 1953, as amended, or any other laws of the Congress which shall authorize the negotiation of contracts in the performance of any of the powers therein granted. [Italic supplied.]

Major Disaster Areas

It is represented by the Department of Defense that the program for major disaster relief depends upon the continued exercise of the exception contained in section 2 (c) (1) and the continuance of the Korean emergency proclamation of December 16, 1950. Legislation dealing with the major disaster area problem is within the legislative jurisdiction of the House Committee on Public Works. Public Law 875 of the 81st Congress, 2d session, created authority considered essential by the Public Works Committee and funds were therein provided—

> supplementary to, and not in substitution for, nor in limitation of, any other authority conferred or funds provided under any law.

Section 7 of that act provided that in carrying out the purposes of the act—

> any Federal agency * * * is authorized * * * to incur obligations on behalf of the United States by contract or *otherwise* * * *.

We do not attempt to interpret the intention of the committee in the foregoing provisions. The act further provides that the funds appropriated are available for reimbursement of departmental funds. We do observe that the cognizant committee of the House has, after a survey of the problem presented, adopted the language above set out, and Congress has followed that recommendation. We do not believe that this committee of the Congress should initiate or propose legislation which is within the jurisdictional province of another legislative committee of the Congress, nor should we diminish or enlarge the authority for negotiation of contracts in performance of any such program without that authority being explicitly given in pertinent legislation where the subject is fully considered by the Congress.

DEFENSE MANPOWER POLICY DIRECTIVE NO. 4, REVISED TO NOVEMBER 5, 1953

This directive was revised and reissued under date of November 5, 1953. It is substantially the same in content and purpose as a directive of the same number issued in 1952, in aid of current or imminent labor surplus areas.

The original directive would have had military procurement conducted at "reasonable prices" and not necessarily "the lowest price obtainable." That proposal came to the attention of the Comptroller General and on January 14, 1952, in Opinion No. B107236, the Comptroller General pointed out that there was nothing in the Defense Production Act of 1950, as amended, which "of itself" authorized—

> generally the negotiation of Government contracts and a disregard of normal procurement procedures.

The Comptroller General ruled that the directive presented the question—

> whether the Armed Services Procurement Act of 1947 authorizes the procedure involved.

The Comptroller General held that authority could be derived from section 2 (c) (1) of this act for the negotiation of contracts without advertising when determined by the agency head—

> to be necessary in the public interest during the period of a national emergency declared by the President.

The Comptroller General pointed to the Presidential proclamation of December 16, 1950, but nevertheless held that it would not normally appear to be in the public interest to let such contracts at higher than the known lowest price.

Subsequently, Congress passed the Defense Appropriation Act of 1954 and put section 644 in it as a limitation on the use of appropriated military procurement funds by providing that none—

> shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations.

That provision is permanent legislation.

The Directive of November 5, 1953, paragraph B (1), suggests that procurement agencies—

> use their best efforts to award negotiated procurement contracts to contractors located within labor surplus areas.

Under authority of Executive order the Secretary of Labor establishes the criteria and makes the determination of the areas of labor surplus within the meaning of Defense Manpower Directive No. 4, as revised.

The House Committee on Banking and Currency has held numerous hearings on the subject of this determination. There appears to be sharp disagreement over the criteria used in the determination of surplus labor areas.

The legal authority, Manpower Directive No. 4, as revised, is declared to be the Defense Production Act of 1950, as amended. There is a marked difference of opinion among informed persons as to the validity of the assertion that the act confers such authority. The Comptroller General, in an opinion of 1952, placed the authority to implement this directive in section 2 (c) (1) and the declaration of a national emergency by the President on December 16, 1950. It is

the position of the committee that it is not within our jurisdiction to initiate legislation concerning economic dislocations. If the Congress, after deliberation, desires to provide such authority by an extension and amendment of the Defense Production Act of 1950 (which expires June 30, 1956), that is within the cognizance of other legislative committees of the Congress and it is for the Congress as a whole to determine upon the recommendations of that committee. Thus far, the Congress has not seen fit to provide that procurement of military supplies may for such purposes, be undertaken by negotiated contracts in derogation of the advertised competitive bidding method excepting for such of these contracts as may have been entered into under the exception provided in section 2 (c) (1) of this act.

This is an issue which we of this committee believe must be met squarely upon its merits and not by indirection; nor made to depend upon the fortuitous continuance of an emergency proclamation as the legal basis for performing this service when needed.

5. SECTION 2 (E)

The amendment adds a new subsection. In it, we have stated positively the intention of Congress that all procurement shall be by advertised bidding. We have said, in clear language, that none of the exceptions 2 (c) (1 through 17) shall be used by the agency head unless—

the facts and circumstances in justification thereof are clear and convincing.

We mean by this that "borderline" cases or "grey areas," as they are sometimes referred to, and any case in doubt or uncertainty, shall be resolved in favor of advertised competitive bidding and not by resorting to these 17 exceptions.

The Comptroller General, in his vigilant examination of the operation of this act and of procurement practices generally, will, as the agent of the Congress, be fully advised and fortified by this firm expression of congressional intent. And, moreover, no agency head can now be in any doubt whatsoever as to what Congress expects of him. We cannot be more explicit.

We propose that the trend shall be toward advertised competitive procurement and that advertised competitive procurement will be the rule; that in every case in which the agency head or his subordinates look toward the exceptions of the act, they are met with the expression of congressional intent in this act, as amended, that what they do must be supported by a justification which is both clear and convincing. And the Congress will examine the findings that are required under this act, from time to time, to determine whether this mandate is being followed. We are determined that the trend which prompted this inquiry, shall be reversed.

6. AMENDMENT OF SECTION 7 (B)

The committee has likewise amended section 7 (b) to raise the factor limiting the power of the agency head to delegate his responsibility to subordinates in the case of research and development projects from $25,000 to $100,000. This provision does not affect the requirement for advertised competitive bidding; neither does it limit accountability of the agency for what is done. We merely

have changed the point at which it becomes a sole responsibility of the agency head and enabled him to delegate these procurements subject to the same statutory restrictions and subject to the same requirements for findings, to a subordinate. We believe this will relieve an agency head of many burdensome duties without changing the accountability which the Congress desires. Accountability is merely transferred to a designated subordinate, but the principle remains the same. Only the person charged may be different.

7. NEW SECTION 7 (E)

The committee has added subsection 7 (e), the purpose of which is to require semiannual reports to the Congress, similar in form to the reports which prompted this inquiry. Heretofore, Congress has only required specific findings where certain exceptions are employed. That requirement is not changed. Hereafter each 6 months the Congress can observe the workings of this act and, as we have indicated in our hearings, if the exceptions again become the rule or if the use of the exceptions is not justified, we propose to further review the matter. It is the determination and purpose of the committee to reverse the trend and to restore advertised competitive bidding to its proper position. A semiannual review will give us the information upon which to act and will keep us abreast of the operation of the act as amended.

8. REPEAL OF SECTION 15 OF PUBLIC LAW 268 84TH CONGRESS, 1ST SESSION TO AMEND THE SMALL BUSINESS ACT OF 1953 (69 STAT. 547)

This amendment to the Armed Services Procurement Act was passed near the close of the first session of this Congress. It was intended, wisely enough, to assure sufficient specification and data to be furnished prospective bidders on advertised competitive bids so that all bidders could respond intelligently, completely, and competitively.

However, the penalty put upon the amendment, in our opinion, would imperil the validity of all contracts under the advertised competitive bidding process since it would enable any complainant, or the United States, as the case may be, to claim that awards or contracts were invalid for failure to carry this "necessary descriptive language."

The Comptroller General argued strongly before this committee against the advisability of such a section being allowed to remain in the law; first, because of the impossibility of interpretation of the standard set up for invalidity of the contracts; and secondly, because instead of encouraging competitive bidding the requirements would be so strict as to discourage procurement officers to resolve a difficult case in favor of competitive bidding because of uncertainty about specifications and the like.

We agree that the purpose of this amendment was widely conceived and is laudable but, because of the penalty attached and because of the complications it would add to the advertised competitive bidding process, it would defeat and harm those whose interests it was intended to protect. It would lead inevitably to litigation and could leave many contracts in doubt.

POSITION OF THE DEPARTMENT OF DEFENSE

The Deputy Assistant Secretary of the Department of Defense for Supply and Logistics as well as the Assistant Secretaries of Army, Navy, and Air Force for Procurement, have all testified before the committee in respect to this bill. In the final analysis of all their testimony, none of them opposes the bill and none of them has indicated any reason why all of the authority which they need in the exercise of their duties within their several departments, cannot be had and exercised under section 2 of the act as it will be amended.

The burden of their testimony was that they were doing a good job in the use of this exception; that the statistics which were furnished to us did not indicate as bad a condition as they seemd to; and, moreover, the Department Secretaries were testing their performance under the emergency powers as against the use of section 2 (c) and the exceptions therein provided. This test was accomplished by requiring written findings to be inserted in departmental files, in which memorandums the contracting officers would write their conclusions as to whether they could have performed the act which they did under any of the exceptions in the Armed Services Procurement Act.

That is not enough. Congress cannot continue these emergencies indefinitely. Government cannot continue through peacetime with the use of emergency powers. The Secretaries testified to us that these findings showed that most of the actions which had been taken could still be done under the exceptions provided in the act. The Assistant Secretary of the Navy very forthrightly acknowledged that the continued use of the emergency provisions of section 2 (c) (1) was the easy way. That is just what we find it to be. And it is evident what the Secretary of Defense found it to be when the directive of November 9, 1955, effective January 1, 1956, was issued limiting the use of the emergency power to five specific areas. But the directive is not enough and memorandums of contracting officers in the multitude of files in the Defense Department are not a substitute for the statutory reports and findings which the Armed Services Procurement Act required. Congress must insist upon complete accountability of dollars, of actions, and of agency heads.

Congress has not been slow in granting necessary powers to the executive department. But emergency powers and extraordinary grants must not be used to depart from the traditional and proven method of conducting public business unless there is clear and convincing evidence, formally acknowledged and certified to, that no other method will serve.

The easy way is the road of suspicion and ultimately leads to corruption. That has been the experience of every governmental body from township, to city, to county, to State. We would neglect out duty to the people if we permitted the easy way to continue, or to permit continued avoidance of statutory requirements and procedures. All of the departments have acknowledged that they can follow the congressional intent expressed in the original act and proposed amendments. They must be given the opportunity.

SUMMARY

We recommend H. R. 8710 for passage for the following reasons:

(1) Section (a) repeals the authority of the Department of Defense to use a Presidential emergency proclamation as continuing authority for negotiating contracts instead of following the practice of advertised competitive bidding or entering into contracts in conformity with the restrictions in section 2 (c) of the Armed Services Procurement Act of 1947. The testimony and record before us indicates very clearly that this section has not been used as Congress intended it to be used, and further the record shows that this delegation of power is unnecessary.

(2) Section (b) will increase the maximum limit within which the formal advertised bidding processes must be accomplished. The old limit has been raised from $1,000 to $2,500. In the present economy and on the recommendation of the Comptroller General, we believe it will promote efficiency and economy to raise the limit authorized in this section.

(3) Section (c) would delegate the authority to purchase non-perishable subsistence items as well as perishable subsistence items without the use of the formal advertised competitive bidding method. The testimony before us is convincing that this will produce greater efficiency and much economy in the purchasing of these items which is principally done by the Department of the Army.

(4) Section (d) will provide a means for carrying on programs in aid of small business, labor surplus or disaster areas when they are authorized by any act of Congress.

(5) Section (e) will require that justification for the use of any exception provided in the act must be clear and convincing. It reaffirms and reiterates a congressional policy of long standing, and removes all doubt from the purpose of the Congress in this legislation.

(6) Section (f) will promote efficiency within the Department of Defense by relieving the agency head of ministerial responsibility in research and development contracts where the amount involved is less than $100,000.

(7) Section (g) will require semiannual reports to the Congress upon the administration of the act and enable Congress to have a continuing look at the methods of procurement.

(8) Section (h) would repeal section 15 of the act to amend the Small Business Act of 1953 (69 Stats. 547) and encourage the use of the advertised competitive bidding process which this amendment might inadvertently impair.

(9) Section (i) provides that this amendatory act be effective 90 days after enactment.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there is herewith printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill:

EXISTING LAW	THE BILL
ACT OF FEBRUARY 19, 1948 (62 STAT. 21)	
SEC. 2. (c) (1) determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress;	SEC. 2. (c) (1) determined to be necessary in the public interest during the period of a national emergency declared by the Congress;
SEC. 2. (c) (3) the aggregate amount involved does not exceed $1,000.	SEC. 2. (c) (3) the aggregate amount involved does not exceed $2,500.
SEC. 2. (c) (9) for perishable subsistence supplies;	SEC. 2. (c) (9) for perishable or nonperishable subsistence supplies;
SEC. 2. (c) (17) otherwise authorized by law.	SEC. 2. (c) (17) otherwise authorized by law; or when negotiation of contracts is otherwise authorized by law in furtherance of small business, labor surplus, or major disaster area programs.
	SEC. 2 (e) It is the declared policy of the Congress that all procurement shall be by advertised bidding; and none of the exceptions in section 2 (c) of this Act shall be used by any agency head or person herein authorized to contract for supplies and services unless the facts and the circumstances in justification thereof are clear and convincing.
SEC. 7. (b) The power of the agency head to make the determinations on decisions specified in paragraphs (12), (13), (14), (15), and (16) of section 2 (c) and in section 5 (a) shall not be delegable, and the power to make the determinations or decisions specified in paragraph (11) of section (2) shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than $25,000.	SEC. 7 (b) The power of the agency head to make the determinations on decisions specified in paragraphs (12), (13), (14), (15), and (16) of section 2 (c) and in section 5 (a) shall not be delegable, and the power to make the determinations or decisions specified in paragraph (11) of section (2) shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than $25,000.
	SEC. 7. (e) Not later than February 15 and August 15 of each calendar year following the date of enactment of this amendatory Act, the Department of Defense shall report to the Congress-- (1) all contracts of $10,000 and over showing the dollar value and the number thereof separated as between those which were formally advertised and those which were negotiated showing as to the latter the number and dollar value of such contracts negotiated under each of the several negotiation authorities provided herein; and (2) the total number and dollar value of all contracts under $10,000 separated as to those which were advertised and those which were negotiated. said report to cover the period January 1 through June 30 or July 1 through December 31, as appropriate, next preceding the date of the filing of said report.
	SEC. 15 of the Act of August 9, 1955 (69 Stat. 547) is hereby repealed.

EXISTING LAW	THE BILL
ACT OF AUGUST 9, 1955 (69 STAT. 547)	
SEC. 15. Section 3 of the Armed Services Procurement Act of 1947 is amended by adding at the end thereof the following new paragraph: (c) All bids or invitations for bids shall contain in their specifications all necessary language and material required and shall be so descriptive both in its language and attachments thereto in order to permit full and free competition. Any bid or invitation to bid which shall not carry the necessary descriptive language and attachments thereto, or if such attachments are not available or accessible to all competent, reliable bidders, such bid or invitation to bid shall be invalid and any award or awards made to any bidder in such case shall be invalidated and rejected.	
ACT OF FEBRUARY 19, 1948, (62 STAT. 21)	
SEC. 13. This Act shall become effective ninety days after the date of enactment.	SEC. 13. The provisions of this amendatory Act shall become effective ninty days after the date of enactment.